

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK (ROCHESTER)**

LINDA LENZI,

Plaintiff,

v.

L.L. BEAN, INC.,

Defendant.

Case No. 6:23-cv-06117-FPG

JUDGE FRANK P. GERACI, JR.

**DECLARATION OF CHRISTOPHER DIAGOSTINO IN SUPPORT OF
DEFENDANT L.L. BEAN, INC.'S MOTION TO DISMISS**

I, Christopher Diagostino, declare under penalty of perjury:

1. I am employed by L.L.Bean, Inc. ("L.L.Bean") as the Director of Store Operations. I have been in my current position since March 1, 2023, and have been employed by L.L.Bean since 2015. In my current position, I have access to L.L.Bean's business records, including sales records and company policies. This Declaration is respectfully submitted in support of L.L.Bean's motion to dismiss.

2. This declaration is based on my personal knowledge and/or review of the business records of L.L.Bean. To the extent this declaration is based upon my review of L.L.Bean's business records, those records are kept in the regular course of business, entries are made on those records in a timely manner by people with knowledge of the information being entered, and it is the regular practice of L.L.Bean business to maintain such records. If later called upon as a witness, I could and would competently testify to the matters stated herein.

3. L.L.Bean's sales records system allows L.L.Bean to link particular purchases to named customers when that customer pays with a card. Purchases that are made with cash are also tracked, albeit it they do not always have a customer name associated with them.

4. L.L.Bean's store in Victor, New York sold only one pair of the Women's Storm Chaser Boots 5, Zip (the "Boots") between January 1, 2020 and June 1, 2020. Our records show this purchase was made on January 3, 2020, by a customer whose first name is not Linda (or any variation thereof), whose last name is not Lenzi, and whose address is located in Indiana.

5. There were no cash purchases of the Boots from the Victor, New York store from January 1, 2020 to June 1, 2020.

6. Further, L.L.Bean's records do not have a customer profile for any customer named Linda Lenzi. There is a record of one customer whose surname is Lenzi, but L.L.Bean has no record of that customer ever purchasing the Boots.

7. L.L.Bean performed an exhaustive search of sales records regarding the Boots from all stores within an approximately 200 mile radius of Rochester, New York. These stores only sold eight of the Boots, in total, from January 1, 2020 to June 1, 2020. L.L.Bean's records show that these eight purchases were made by customers other than Linda Lenzi.

8. If Ms. Lenzi had purchased the Boots from L.L.Bean, and was dissatisfied with them for any reason, she could have returned them for a full refund within a year of her purchase. A true and correct copy of L.L.Bean's return policy, as it existed in March, 2020, is attached hereto as **Exhibit A**.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 12, 2023

DocuSigned by:
By: Christopher Diagostino
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Christopher Diagostino

EXHIBIT A

Our COVID-19 Response [Learn More](#)

Customer Service | Stores | Gift Cards | [L.L.Bean® Mastercard®](#) | [Log In](#)

L.L.Bean

SHOPPING BAG

Wish List

CLOTHING

FOOTWEAR

OUTDOOR EQUIPMENT

BAGS & TRAVEL

HOME GOODS

SALE

OUTDOOR PROGRAMS

L.L.BEAN OUTSIDE

L.L.Bean > Customer Service > Returns & Exchanges

Customer Service

Returns & Exchanges

Service Plans

Canada

International

Order Status

Shipping Information

Monogramming

Product Services

My L.L.Bean Account

Catalogs

Ordering Information

Technical Information

Promotions, Bean Bucks
& Gift Cards

International Help

Outdoor Discovery
Programs

Return and Exchanges

Return Policy

If you are not 100% satisfied with one of our products, you may return it within one year of purchase for a refund. (Please note that products purchased before February 9, 2018, are not subject to this one-year time limit.) After one year, we will consider any items for return that are defective due to materials or craftsmanship.

We require proof of purchase to honor a refund or exchange. If you provide us your information when you check out, we will typically have a record of your purchase. Otherwise, we require a physical receipt.

Please include your proof of purchase with the products you wish to return or exchange and bring it with you to any of our stores, or include it in your package of returned item(s). We will reimburse the original purchase price to either your original method of payment or as a merchandise credit. Note: items purchased with PayPal and returned to a store will receive either merchandise credit or a cash refund.

 [Special Conditions](#)

[Service Plans](#) are available for L.L.Bean Fly Rods, L.L.Bean Waders and select L.L.Bean Boots for situations beyond those covered by our Return Policy.

Return or Exchange by Mail

Need an exchange right away?

Call 800-441-5713. When we ship out your new item, we'll waive the standard shipping fee. You will still be charged \$6.50 to ship your returned item if using the UPS convenience label. Return shipping is FREE for L.L.Bean Mastercard members.

Refund details

Allow up to two weeks to receive your refund from the time we receive your package. In most cases, we will refund the original payment method. Gift recipients will receive merchandise credit.

1. Locate the Packing Slip

Find and complete the form printed on the packing slip that came with your order. We require proof of purchase to honor a refund or exchange. If you need assistance locating your order number, please contact us.

L.L.Bean

Order Date: 03/10/2017
Order Number: 0100 0170 4568 001N
UPS Tracking # if Returning Items: 1Z 2F7 970 06 7253 6619

Call us anytime 800-221-4221

060 2 002 2
08374232 90101 N 99999
C120 812.02 512910551

Item No.	Item Description	Qty.
TA275491	Comfort Knot Jean Classic Fit Straight Leg Mts Reg, 10, Sea Sl	1
TA275492	Jean Classic Fit Straight Leg Mts Reg, 12, Sea Sl	1
TA275491	Comfort Knot Jean Classic Fit Straight Leg Mts Reg, 10, Sea Sl	1
TA275491	Comfort Knot Pant Flare Leg Mts Reg, 12, Sea Sl	1

See the complete details of this order at www.llbean.com/OrderHistory

Can't find your packing slip?

[Print a return and exchange form](#)[Print a return shipping label](#)

Keep this top section for your records. Complete bottom portion and return with your package.

 [Returning oversized item\(s\) shipped by freight?](#)

2. Prepare Your Package

We require proof of purchase to honor a refund or exchange. Include your return item and receipt, invoice or packing slip, using the original package if possible.

3. Attach Shipping Label

Use the UPS Convenience Label on your packing slip. Return shipping is \$8.50 per package.



[Learn](#) how you can ship this return for FREE as an L.L.Bean Mastercard member.

Can't find your shipping label?

[Print a return shipping label](#)

[Send package without shipping label](#)

4. Ship Your Package

Take your package to a UPS drop box, store or driver. [Find a UPS location](#).

[When can I expect a refund?](#)

Return or Exchange in Store

1. Find Your Item and Receipt

Please bring your receipts along with your items so we can refund your original method of payment, provide a merchandise credit or exchange your products.

2. Visit Any L.L.Bean Store

Whether you purchased your item on [llbean.com](#), by mail, by phone or at one of our stores, we are happy to accept your return at any of our [retail stores](#) or outlets. Due to space constraints, our kiosks can process returns only for items purchased at those locations.

Large indoor and outdoor furniture may be returned **in person only**, at our Davis Warehouse. For questions, contact our Home Store at 1-877-755-2326 or Customer Service at 800-341-4341.

Address for In-Person Returns Only

Davis Warehouse
27 West St
Freeport, ME 04033

[Find a store](#)

Frequently Asked Questions

What is the guarantee policy for purchases made before the policy change of Feb. 9, 2018?

We will generally accept those items with proof of purchase, except in special conditions. Going forward, if you're not satisfied with a product, you may return it within one year of purchase for a refund.

What is the current return policy?

Most products may be returned within one year of purchase, with proof of purchase. After one year, we will consider any items for return that are defective due to materials or craftsmanship.

Are there any special conditions to the return policy?

To protect all our customers and make sure that we handle every return or exchange with reasonable fairness, we cannot accept a return or exchange (even within one year of purchase) in certain situations.

[Special Conditions](#)

Can I return an item purchased using a Gift Card or Bean Bucks?

Yes, even if the item was received as a gift. We will provide a refund in the form of a gift card. Our gift cards never expire and may be redeemed on [llbean.com](#), by phone, mail, or at any of our stores.